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SUBJECT: EU APPOINTS DE KERCHOVE AS NEW CT COORDINATOR

SUMMARY

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¶1. EU ministers for Justice and Home Affairs (JHA Council) on September 18 concurred on the designation of Gilles de Kerchove, a senior Belgian official in the Council Secretariat, as the EU's new Counter-Terrorism Coordinator. Ministers also endorsed a compromise plan for sharing criminal data among Member States, narrowing it to personal data shared by one Member State with another and setting conditions for sharing data with non-EU states. There was also agreement to discuss counter-terrorism "in-depth" at the informal meeting of the JHA Council in Lisbon on October 1-2. Migration and Schengen issues debated at the Council have been reported SEPTEL. Full text of Council conclusions has been transmitted to EUR/ERA.

END SUMMARY.

COUNTER-TERRORISM: A NEW COORDINATOR, AT LAST

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¶2. The JHA Council on September 18 agreed on a revamped profile for the job of EU Counter-Terrorism Coordinator. They also concurred on the designation of Gilles de Kerchove, a senior Belgian official in the Council Secretariat, to succeed the Dutchman Gijs de Vries in a position that has been vacant for six months following the resignation of de Vries for "personal reasons." Speaking at a press conference, Portuguese Interior Minister/Council chair Rui Pereira said ministers agreed that the new Coordinator "should have a largely technical profile and role." Pereira declined to announce the name of the new Coordinator (a prerogative of HR Solana) but mentioned that the incumbent would be "particularly concerned with bundling and pooling forces" and with "ensuring smooth cooperation between all the European institutions."

¶3. The appointment of de Kerchove was subsequently confirmed on September 19 by Solana, who said in his announcement that de Kerchove would coordinate the Council's work in the field of CT, "maintain an overview of all the instruments at the Union's disposal, closely monitor the implementation of the EU counter-terrorism strategy, and ensure that the Union plays an active role in the fight against terrorism." Solana separately told journalists regarding the powers of his new aide: "It will be powers that will be -- I don't have to call them expanded -- they will be deeper and in a much closer relation with the ministers and the different countries that have a lot to say on the fight against terrorism."

¶4. Comment. The position of CT Coordinator was created by the EU as an urgent response to the March 2004 attacks in Madrid but the powers of the first job-holder, a former Dutch State Secretary, proved limited as de Vries came to face resistance from national security chiefs. As revamped by the Council, the revised profile

suggests that the new Coordinator will not be expected to interfere in the operational activities of the various departments and ministries involved in CT activities in the individual Member States. De Kerchove, a close USEU contact in his capacity as Director in the Council Secretariat with responsibility for police and judicial cooperation in criminal matters, worked closely with de Vries and will no doubt be aware of the limitations of his brief. End comment.

¶ 15. Pereira said the Council heard presentations from the German, Austrian and Danish delegations concerning the terrorist plots and arrests in their respective countries. Pereira said the Council congratulated the three countries, emphasizing the need for cooperation among Member States. In Pereira's words, "terrorism continues to be a threat to all Member States of the EU. Cooperation has to be ever-closer." Pereira announced that counter-terrorism would be discussed "in-depth" at the informal meeting of the JHA Council in Lisbon on October 1-2.

#### DATA PROTECTION IN THE "THIRD PILLAR"

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¶ 16. Meeting in the Mixed Committee with their Schengen counterparts from Norway, Iceland and Switzerland, EU ministers agreed on the scope of a draft Framework Decision for the protection of personal data within the framework of police and judicial cooperation (the EU's "third pillar"). The purpose of this legislation is to ensure a high level of protection of the basic rights and freedoms, and in particular the privacy, of individuals, while guaranteeing a high level of public safety when exchanging personal data. Following protracted negotiations, the Portuguese Presidency tabled a compromise implying that the piece of legislation will only apply to the cross-border exchange of personal data. There will be an evaluation by the Commission of the data protection system, including the limitation of the scope, three years after the Framework Decision enters into force.

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¶ 17. The Council also agreed that personal data transmitted to another Member State may be transferred to non-EU countries or international bodies (to include EUROPOL and EUROJUST) only if a number of conditions, including prior consent, are met. Notably, personal data may be transferred without prior consent, but with after-the-fact notice, in emergency situations. The Council bodies will continue their review of other aspects of the draft Framework Decision.

#### MISCELLANEOUS

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¶ 18. The Council also:

-- Adopted a "Civil Justice" program aimed at improving mutual understanding of the legal and judicial systems of the Member States with a 109 million EUR budget for the period 2007-2013. The program is expected to contribute to lowering barriers to judicial cooperation in civil matters within the EU;

-- Heard a presentation by the President of the Court of Justice (ECJ), Vassilios Skouris, who submitted a Court's request to amend its statute with a view to instituting an emergency preliminary ruling procedure;

-- Held an orientation debate on a draft Framework Decision on the European supervision order, also noting a progress report in respect of a draft Framework Decision on "probation". These two draft legal instruments aim at reinforcing the application of the principle of mutual recognition in the common area of freedom, security and justice. Both are intended to allow persons to comply in their Member State of residence with a non-custodial supervision or probation measure imposed in another Member State.

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